

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

VLADISLAV KLIUSHIN (a/k/a
VLADISLAV KLYUSHIN), *et al.*,

Defendants.

Case No. 1:21-cv-12088-WGY

PLAINTIFF'S PARTIALLY ASSENTED TO MOTION TO SET BRIEFING SCHEDULE

Plaintiff U.S. Securities and Exchange Commission (“SEC”), pursuant to Local Rule 7.1(a)(1), respectfully requests that the Court set a briefing schedule for Motion(s) for Default Judgment and Motion for Summary Judgment after entry of the restitution order in *United States v. Klyushin, et al.*, No. 21-cr-10104-PBS (D. Mass.) (“Order of Restitution”)¹ and completion of the Commission’s required approval process. Defense counsel for Defendant Kliushin assents to the motion. The remaining defendants have not appeared in this case and are fugitives in the parallel criminal case. In support of its Motion, the SEC presents the following grounds.

1. On December 20, 2021, the SEC filed the Complaint in this matter. Dkt. No. 1.
2. Defendant Vladislav Kliushin waived service and filed an Answer to the Complaint on February 22, 2022. *See* Dkt. Nos. 6, 10.²
3. The Court subsequently granted the SEC’s request for alternative service on the

¹ Restitution was deferred to December 5, 2023, so the Order of Restitution will likely be entered on or around that date, if not earlier.

² In light of parallel criminal proceedings, the Court granted the United States’ motion to intervene and for a partial stay of discovery. Dkt. 18.

remaining Defendants, Nikolai Rumiantcev, a/k/a Nikolay Rumyantcev (“Rumiantcev”), Mikhail Irzak (“Irzak”), Igor Sladkov (“Sladkov”), and Ivan Yermakov, a/k/a Ivan Ermakov (“Yermakov”) (collectively, “Defaulting Defendants”) and deemed the SEC’s service via email on Defaulting Defendants effective April 21, 2022. Dkt. Nos. 13, 21.

4. On July 13, 2022, the Clerk of Court issued a Notice of Default as to the Defaulting Defendants. Dkt. No. 28. That same day, the Court held a status conference, at which the Court “administratively closed [the case] as of July 30, 2022 pending the outcome of [the] related criminal matter [*United States v. Klyushin, et al.*, No. 21-cr-10104-PBS (D. Mass.)],” and ordered that “the case may be reopened upon motion of any party.” Dkt. No. 27.

5. On August 13, 2022, the Court entered an Order for Closure, which stated, in relevant part, “The case may be reopened upon motion by any party demonstrating that the above-entitled impediment to trial has been removed. This closure is without prejudice to either party moving to restore it to the docket, if any further action is required.” Dkt. No. 31.

6. On February 14, 2023, a jury found Defendant Klyushin guilty on each of the four counts charged in the Indictment. *United States v. Klyushin, et al.*, No. 21-cr-10104-PBS (D. Mass.) at Dkt. No. 203. On September 7, Defendant was sentenced, and final judgment and an order of forfeiture were subsequently entered. *Id.* at Dkt. No. 252.

7. Notably, restitution was deferred until December 5, 2023. The parties were ordered to try to reach an agreement and submit briefs on October 20, 2023. *Id.* at Dkt. Nos. 252, 255.

8. On September 15, the SEC filed its Motion to Reopen Case and to Lift Partial Stay of Discovery (“Motion to Reopen”) to start the process of securing judgments in this case.

Dkt. No. 32. In its Motion to Reopen, the SEC informed the Court that the criminal case against Defendant Kliushin had been resolved, with the exception of the issue of restitution that had been deferred. *Id.* at 3. Accordingly, the SEC requested that the Court reopen this case upon entry of the Order of Restitution, so the SEC could pursue final judgments. *Id.* at 3-4. The SEC provided corresponding filings dates for motions for default judgment and summary judgment, which were based on a reopening of the case after entry of the Order of Restitution. *Id.* at 4. Defendant Kliushin opposed the SEC's Motion to Reopen. Dkt. No. 34.

9. On September 20, 2023, the Court granted the SEC's Motion to Reopen. Dkt. No. 35. The Court's order was entered as an electronic order on the docket, and the case was reopened. Dkt. Nos. 35, 36. The electronic order did not specify the deadlines for the SEC to file the relevant motions to secure judgments against Defendants. *See id.*

10. The SEC hereby respectfully requests that the Court set a briefing schedule that aligns with the proposed schedule set forth in its Motion to Reopen, which ties to entry of the Order of Restitution.³ The proposed briefing schedule, as set forth below, provides necessary time for the completion of the Commission's internal deliberative process to review and approve the judgment the SEC intends to seek in this case and that allows for consideration of the Order of Restitution once entered. Specifically, the SEC respectfully requests that the Court set the following filing deadlines:

- a. SEC motion(s) for default judgment against Defaulting Defendants: 30 days after entry of the Order of Restitution.
- b. Defaulting Defendants' opposition(s): 14 days after motion(s) for default judgment filed. *See Local Rule 7.1(b)(2).*

³ The SEC's proposed briefing schedule set forth herein and in its Motion to Reopen is consistent with the proposed schedule set forth in the Affidavit of James P. Connor Regarding Timing of Motion for Default Judgment ("Affidavit"). Dkt. No. 30.

- c. SEC motion for summary judgment against Defendant Kliushin: 60 days after entry of the Order of Restitution.
- d. Defendant Kliushin's opposition: 30 days after motion for summary judgment filed (based on agreement through counsel between the SEC and Defendant Kliushin).
- e. SEC reply in support of motions for default judgment and summary judgment: 7 days after the filing of the relevant opposition(s).⁴

If the SEC is able to reach an agreement with any of the Defendants prior to these filing dates, it will file an update with the Court.

11. The proposed briefing schedule allows for the time necessary to complete the Commission's internal approval process, which is required for the remedies at issue here. This schedule will also allow for Commission consideration of the Order of Restitution, which is relevant to the terms of the judgments that the SEC will request in this case.

Accordingly, for the foregoing reasons, the SEC respectfully requests that the Court grant the SEC's Motion and enter the attached proposed order setting the briefing schedule.

Dated: September 26, 2023

Respectfully submitted,

/s/ Jennifer L. Farer
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Jennifer L. Farer
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Counsel for Plaintiff

⁴ Pursuant to Local Rule 7.1(b)(3), the SEC requests leave of Court to file a reply brief if any opposition is filed. Due to Defaulting Defendants' failure to appear, and the limited information provided in Defendant Kliushin's Answer, any opposition to the SEC's motions for default judgment and for summary judgment would be the first substantive response to the SEC's Complaint. The Court should allow the SEC to file a reply to address Defendants' arguments and develop a more complete record on these motions in support of any entry of judgment.

CERTIFICATE OF SERVICE

I, James P. Connor, certify that on September 26, 2023, the foregoing was filed using the Court's CM/ECF system, which constitutes service upon all registered ECF users, including counsel for Defendant Vladislav Kliushin. In addition, copies of the foregoing were sent to the other Defendants at the following email addresses:

Defendant	Email Address
Nikolai Rumiantcev	nr@m13.su
Mikhail Irzak	mikka777@yahoo.com
Igor Sladkov	isladkov@mail.ru
Ivan Yermakov	i.s.ermakov@yandex.ru

/s/ James P. Connor
JAMES P. CONNOR